

08 MAY -9 PM 12:47

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA BY:

EE

DEPUTY

08 CV 0843 L JMA

Hussain D. Vahidallah Ph.D., FICPP
7505 Gayneswood way San Diego CA 92139
Tel & Fax (619) 479-4212

Hussain D. Vahidallah

Plaintiff,

VS.

Center for Medicare and Medicaid Service-CMS

7500 Security Blvd Baltimore MD

21244-1850

(410) 786-0727

Defendant

Case No. 08 CV 0843 L J
Complaint
Motion for Misrepresentation, discrimination and
violation of the Americans with Disabilities Act
("ADA").

To the United States District Court, of Southern California, comes now, Hussain D.Vahidallah, called "plaintiff."

And Center for Medicare called Defendant.

With all my respects to the Federal Court Plaintiff Hussain D. Vahidallah alleges: I went to small claim they said

this case defendant are Federal and small claim does not have jurisdiction for Federal case go to Federal Court. I am,

disabled and received disability I am on Medicare insurance and all the time Medicare and Medical

pay may medicine through Medicare, even part of physical year 2006 but year 2007 Medicare refused. I did call

Social Security and they research and said and written you qualify for zero pay. I call Medicare many time they

ignored or refused me and Social Security sent to me these documents. Please see enclosed .

Where a plaintiff appears in pro se in a civil rights case, the court must construe the

Pleadings liberally and afford the plaintiff any benefit of the doubt. *Karim-Panahi v. Los Angeles Police Dept.*,

839F. 2d 621 at 623 (9th Cir. 1988). The Rule of liberal construction is “particularly important in civil

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rights case.”Ferdik V. Bonselet, 963 F. 2d 1258, 1261 (9th Cir. 1992). In giving liberal interpretation to a pro se civil rights complaint, however, the court may not “supply essential elements of claims that were not initially pled.” Ivey v. Board of Regents of the University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982).

To set up a prima face case under 42 U.S.C. § 1983 plaintiff alleged (1) the action complained of occurred “under color of law,” and (2) the action resulted in deprivation of a constitutional right or a federal statutory right. Azer v. Connell, 306 F. 3d 930, 935 (9th Cir. 2002); McDade v. West, 223 F. 3d 1135, 1139 (9th Cir. 2000) (citing Paratt v. Williams, 474 U.S. 327, 330-31 (1986)). Such conclusory allegations fail to state a claim for violation of § 1983. Jones, 733 F. 2d at 649 .

Claim under 42 U.S.C. § 1983

Section 1983 imposes liability upon any person who, acting under color of state law, deprives another of a Federally protected right. 42 U.S.C. § 1983 (1982). “To make out a cause of action under section 1983, Plaintiffs Must Plead that (1) the defendants acting under color of state law (2) deprived plaintiffs of rights secured by the Constitution or Federal statutes.” Gibson v. United State, 781 F.2d 1334, 1338 (9th Cir. 1986).[**6]

Therefore, Defendants violated § 1983 by depriving plaintiff of the Federal statutory rights provided by § 1981. Defendant violated § 1983 by discriminating against plaintiff due to his disability, which deprived Plaintiff Of his rights under the ADA. Plaintiff alleged extra adequately that Defendant took action resulting in a deprivation of a constitutional or federal statutory right. Plaintiff assert any facts showing how the discrimination entered into any of Defendant actions or decisions . Plaintiff alleged that Defendants breached the contract as a result of discrimination based on my disability .Plaintiff made clearly actions and decisions were infected by discrimination

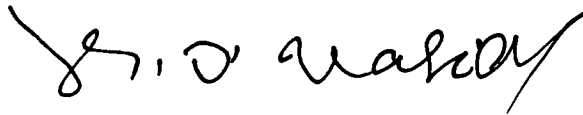
Violation of 42 U.S.C. § 1983

Plaintiff alleging in the original complaint’s § 1983 claim. To establish a prima face case under § 1983 plaintiff assert (1) the action complained of occurred “under color of law” and (2) the action resulted in a deprivation of a constitutional right or a federal statutory right. Azer v. Connell, 306 F.3d 935 (9th Cir. 2002) (citing McDade v. Wes, 223 F. 3d 1135, 1139 (9th Cir. 2000)).

Plaintiff assert my Federal right which were violated are civil right act 1964 (42 U.S.C.1981). That mean is Defendant’s violated § 1983 deprived plaintiff Federal statutory right provided by § 1981.

1 I am respectfully request penalty damage for year 2006 and 2007 which I paid \$ 1440 and no drug – Co –
2 payments.I declare under penalty of perjury that the above is true and correct.

3
4
5 Hussain D. Vahidallah Ph.D., FICPP Date November , 2005

6 

7
8 Dated May 9, 2008

Small Claims Referral

Date: 3-27-08 Time: 2:33

Clerk: af

☒ Legal Advisor – Initial _____

____ Lobby (Telephone)

____ Sheriff

____ Bank

Other _____

Important Information

Mid-Atlantic Program Service Center
300 Spring Garden Street
Philadelphia, Pennsylvania 19123-2992
Date: April 22, 2007
Social Security Number: 577-74-9764

0000010793 *****AUTO** MIXED AADC 350



HUSSAIN VAHIDALLAH
7505 GAYNESWOOD WAY
SAN DIEGO CA 92139-1328

On April 6, 2007, you submitted an Application for Help with Medicare Prescription Drug Plan costs. You are automatically eligible for extra help with Medicare prescription drug plan costs because you receive Supplemental Security Income, Medicaid, or participate in the Medicare Savings Program. We do not need to process your application.

If You Have Any Questions

For information about the Medicare prescription drug plans or other Medicare issues, visit www.medicare.gov on the Internet or call toll-free 1-800-MEDICARE (1-800-633-4227). If you are deaf or hard of hearing, you may call the Medicare TTY number toll-free at 1-877-486-2048.

For information about the extra help with the costs related to the Medicare prescription drug plans or general information about Social Security, visit our website at www.socialsecurity.gov on the Internet. You may also call Social Security toll-free at 1-800-772-1213. If you are deaf or hard of hearing, you may call our TTY number toll-free at 1-800-325-0778. We can answer most questions by phone.

If you do call, please have this letter with you. It will help us answer your questions.

Peter D. Spencer
Peter D. Spencer
Regional Commissioner

UNI-CARE

#BWNCQXF
#CALPH00100000009#
HUSSAIN VAHIDALLAH
7505 GAYNESWOOD WAY
SAN DIEGO CA 92139

000067

call for retrbr #
برای یاداند از ای است ده جن
31/4/2007
تلفن ۶۱۹ ۲۳۰ ۰۹۹۷

Date: 2/23/2007
Member Name: HUSSAIN VAHIDALLAH
Medicare Number: 529A21198
Case Number: 515562
Provider Name: BRAVERMAN, IRA R MD INC
Provider Fax: 6194796750

Notice of Approval of Medicare Prescription Drug Coverage

Dear HUSSAIN VAHIDALLAH:

We have approved coverage of the following prescription drug(s) that you or your physician requested: The request for AVANDIA is approved from 2/22/2007 to 2/22/2008 for # 60 per 30 day supply.

This is a decision about payment for pharmacy services. You and your doctor should always decide which treatment, medicine, or service is right for you. If you have any questions, direct them to the toll free number: 1-800-928-6201. If you have a hearing or speech impairment, please call us at: TTY: 1-877-247-1657. Hours of operation are Monday through Friday 5:00 AM to 6:00 PM Pacific time.

WC covered
pharm in
H'ND
Jan 619 230
Apr 0997

This information is being provided for general information purposes only and is not the practice of medicine or the substitute for the independent medical judgment of a treating physician, only a treating physician can determine what medications are appropriate for a patient. Inclusion or exclusion of medications on the UniCare Formulary is not the practice of medicine. Please refer to the applicable plan for more information on plan benefits, conditions, limitations and exclusions. If the health plan is provided on a self-funded basis by the member's employer, claims are administered by either of the following companies: UniCare Life & Health Insurance Company or UniCare Health Plans of Texas, Inc. If the member's health plan is insured or health maintenance organization coverage, the coverage is provided by one of the following companies: UniCare Life & Health Insurance Company, UniCare Health Insurance Company of the Midwest (IN and IL only), UniCare Health Plans of the Midwest, Inc. (HMO in IN and IL only), UniCare Health Insurance Company of Texas (TX only) or UniCare Health Plans of Texas, Inc. (HMO in TX only). ® Registered Mark of WellPoint, Inc. Pharmacy benefit management services provided by Professional Claim Services, Inc. dba WellPoint Pharmacy Management.



P.O. BOX 1097
NORTHRIDGE CA 91328-1097

April 21, 2008

HUSSAIN D VAHIDALLAH
7505 GAYNESWOOD WAY
SAN DIEGO CA 92139-1328

18547



Re: Important Account Information for Account Number: 492-387820-5.

Current Balance: ~~-\$132.09~~

~~-765.09~~

Dear Valued Customer:

We recently notified you about overdraft activity on your account (see the account number and amount above). Our records show your account has remained overdrawn for the past 5 days. If you've already made a deposit of available funds to bring your account to a positive balance, thank you! Simply throw this notice away. If not, please visit your local Washington Mutual Financial Center to make a deposit, or call us at 1-800-788-7000 to transfer funds from another eligible Washington Mutual account.

Unfortunately, if your account is still overdrawn 5 days from the date on this letter, we will stop honoring your requests for withdrawal from this account; this would include, for example (if offered on your account), payments, withdrawals or transfers via check, ATM, debit card, online banking, telephone or ACH.

We don't want this to happen, so please make a deposit today. Please give us a call if you have any questions. We're available seven days a week at 1-800-788-7000.

Thank you for taking care of this.

Sincerely,

Washington Mutual Bank, FA

BANKRUPTCY NOTICE

IF YOU ARE IN BANKRUPTCY OR HAVE BEEN DISCHARGED, THIS IS FOR INFORMATIONAL PURPOSES AND IS NOT AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY.

NOTICES OF FURNISHING NEGATIVE INFORMATION

WE MAY REPORT INFORMATION ABOUT YOUR ACCOUNT TO CREDIT BUREAUS. LATE PAYMENTS, MISSED PAYMENTS, OR OTHER DEFAULTS ON YOUR ACCOUNT MAY BE REFLECTED IN YOUR CREDIT REPORT.



P.O. BOX 1097
NORTHRIDGE CA 91328-1097

April 25, 2008

HUSSAIN D VAHIDALLAH
7505 GAYNESWOOD WAY
SAN DIEGO CA 92139-1328

45997



Re: Important Account Information for Account Number: 492-387820-5.

Current Balance: -\$165.09

We recently notified you about the overdrawn balance on your account (see the account number and current balance above). Our records show your account has remained overdrawn for the past 10 days. Maybe you've already made a deposit of available funds, eliminating any overdrawn balance - if so, thanks! You can disregard this notice. If not, there's more information you need to know.

Because you're still overdrawn, we've stopped honoring your requests for withdrawal from this account; this includes, for example (if offered on your account), payments, withdrawals or transfers via check, ATM, debit card, online banking, telephone or ACH. Please call us at 1-800-788-7000 to arrange a transfer from another eligible Washington Mutual account, or visit any Washington Mutual Financial Center to make a deposit of immediately available funds.

Unfortunately, if your account continues to be overdrawn, we will close your account and may report this situation to a consumer reporting agency. We'd like to avoid this by having you eliminate this overdrawn balance. Your account is important to us, so please contact us. Visit us online at wamu.com, or call us at 1-800-788-7000 to arrange a transfer. If you have any questions, our telephone bankers are available seven days a week.

Sincerely,

Washington Mutual Bank, FA

BANKRUPTCY NOTICE

IF YOU ARE IN BANKRUPTCY OR HAVE BEEN DISCHARGED, THIS IS FOR INFORMATIONAL PURPOSES AND IS NOT AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY.

NOTICES OF FURNISHING NEGATIVE INFORMATION

WE MAY REPORT INFORMATION ABOUT YOUR ACCOUNT TO CREDIT BUREAUS. LATE PAYMENTS, MISSED PAYMENTS, OR OTHER DEFAULTS ON YOUR ACCOUNT MAY BE REFLECTED IN YOUR CREDIT REPORT.

Member ID Number: 529A21198

Explanation of Benefits

For period beginning 03/01/2008 and ending 03/31/2008

[illegible]

(* Denotes a drug that is covered under an enhanced alternative plan and is not generally covered in a Medicare Prescription Drug Plan. Any payments paid for these drugs do not help you move through the benefit or qualify for catastrophic coverage.)

(** This amount includes any extra help you get to pay for your drugs. Low Income Subsidy payments are indicated with an "L")

(*** Denotes a reprocessed claim. We did an audit of your claims and found some that required adjustment. The amounts shown here reflect the corrected amounts. If it is determined that you are due a refund, you will receive further communication.)



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HUSSAIN D VAHIDALAH

Plaintiff

NO. _____

DECLARATION OF SERVICE

Person served:

Central for Medicare & Medicaid Services
7500 Security Blvd Baltimore MD
21244-1850

Date served:

Defendant

I, The undersigned declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; that I served the above named person the following documents:

In the following manner: (check one below)

- 1) ☐ By personally delivering copies to the person served.
- 2) ☐ By leaving, during usual office hours, copies in the office of the person served with the who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left.
- 3) ☐ By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of his/her office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left.
- 4) ☒ By placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mails at San Diego, Ca on National City

Executed on May 8, 2008, 200__ at San Diego, California

Manuel P. Dula

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS HUSSAIN D. VAHIDALLAHDEFENDANTS Center for Medicare & Medicaid Service - CM's
7500 Sec 408 MAY 31 11:47 PM Baltimore MD
County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

08 CV 0843 L JMA

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorney's (Firm Name, Address, and Telephone Number) Pro Se
7505 Gayneswood Way SDCA 92139Attorneys (If Known) Do not know DEPUTY

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input checked="" type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☒ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

42 USC 1395

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

5/9/2008

[Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

21

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